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09/826,814	04/06/2001	Eric N. Williams	PIP-75-WILL	6446
31518	7590	05/18/2006	EXAMINER	
NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			ALVAREZ, RAQUEL	
		ART UNIT	PAPER NUMBER	
			3622	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/826,814

Filing Date: April 06, 2001

Appellant(s): WILLIAMS ET AL.

Richard A. Neifeld
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/24/06 appealing from the Office action
mailed 7/15/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

Appellant's brief presents arguments relating to restriction requirement. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5, 7-19, 21-25, 43-48, 50-62, 64-68, 86-101 and 122 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (6,848,995 hereinafter Walker).

With respect to claims 1-5, 7-12, 15-19, 21-25, 43-48, 50-55, 58-62, 64-68, 86-94, 97-101 and 122 Walker teaches storing in a database a status criteria associated with an initial promotion (Figure 7, 307); storing in said database at least a first status value associated with said status criteria and a second status value associated with said status criteria, said first status value indicating acceptance of said promotion, and said second status value indicating rejection of said promotion (see Figure 7, 308); delivering said initial promotion to a customer (Figure 7); determining a status of said initial promotion delivered to said customer using said status criteria associated with said initial promotion and selecting a related promotion based on said status of said initial promotion delivered to said customer (col. 14, lines 62 to col. 15, lines 1-11) and delivering said related promotion to said customer (col. 14, lines 62 to col. 15, lines 1-11).

With respect to claims 13, 14, 56-57, 95-96 ,Walker further teaches determining a status of the initial promotion based on an expiration date of said promotion (Figure 7).

Claims 6, 20, 49, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker.

Claims 6, 20, 49 and 63 further recite delivering the promotion to the customer through direct mailing and hand delivering process. Official notice is taken that it is old and well known in marketing to deliver promotions through direct mail and hand delivery process in order to have the promotions available to customers who don't have access to computer or electronic means. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included delivering the promotion to the customer through direct mailing and hand delivering process in order to achieve the above mentioned advantage.

(10) Response to Argument

The 101 rejection has been withdrawn.

With respect to Appellant's arguments, the Examiner wants to point out that Appellant on page 10, of the brief states that "Barnet "does not disclose determining a defined status value for status of said initial promotion corresponding to one of accepted, rejected and unknown, the Examiner wants to point out that Barnett wasn't the reference cited. Walker was the reference cited and of record.

The Examiner wants to point out that Walker teaches indicating if the offer has been, accepted, rejected (see figure 7, 308) and based on the user's acceptance or rejections of the offers, the system uses this information to further target other offer or services (col. 14, lines 62 to col. 15, lines 1-11).

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Appellant argues that Walker doesn't teach applying the "unknown" status to the transaction data. The Examiner wants to point out that Walker teaches that if the status of the promotion cannot be verified, whether the customer accepted or rejected the offer based on the resulting revenues 309, the player may be asked if the **offer had not been made** and this information will be used to update the transaction data for the customer (col. 14, lines 43-61) in addition before any offer has been "accepted" or "rejected" all the offers will be "unknown" to the system.

With respect to Appellant's brief relating to restriction requirement. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Raquel Alvarez



Conferees:

Eric Stamber



Yehdega Retta

